Norman L. Smith (SBN 106344)
nsmith@swsslaw.com
Edward J. McIntyre (SBN 80402)
emcintyre@swsslaw.com
Alison L. Pivonka (SBN 156977)
apivonka@swsslaw.com
SOLOMON WARD SEIDENWURM & SMITH, LLP
401 B. Street, Suite 1200
San Diego, CA 92101
Telephone: (619) 231-0303
Facsimile: (619) 231-4755

Attorneys for Plaintiff
HANSON BEVERAGE COMPANY

Nathan R. Hamler, Esq. (SBN 227765)
nhamler@mintz.com
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
3580 Carmel Mountain Road, Suite 300
San Diego, California 92130
Telephone: (858) 314-1500
Facsimile: (858) 314-1501

Mark B. Mizrahi, Esq. (SBN 179384)
mmizrahi@bjtlaw.com
BELASCO JACOBS & TOWNSLEY, LLP
6100 Center Drive, Suite 630
Los Angeles, CA 90045
Telephone: (310) 743-1188
Facsimile: (310)743-1189

Attorneys for Defendant
INNOVATION VENTURES, LLC dba
LIVING ESSENTIALS

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

HANSEN BEVERAGE COMPANY, a Delaware corporation, Plaintiff, v. INNOVATION VENTURES, LLC dba LIVING ESSENTIALS, a Michigan corporation, Defendant.	Case No. 08-cv-1166 IEG (POR) **JOINT MOTION TO EXTEND DEFENDANT'S TIME TO FILE RESPONSIVE PLEADING PURSUANT TO RULE 6(B)** Assigned to The Hon. Irma Gonzalez Date Filed: 07/01/08

Pursuant to Local Rules 7.2 and 12.1, plaintiff Hansen Beverage Company ("Hansen") and defendant Innovation Ventures, LLC dba Living Essentials ("Living Essentials"), by and through their respective counsel, stipulate to establishing August 18, 2008 as the date by which Living Essentials shall file an answer or other responsive pleading to the complaint in this action.[1]

If Living Essentials' response to the complaint is a motion, Living Essentials agrees that it shall give Hansen at least as much time to oppose that motion as Hansen gave Living Essentials to respond to Hansen's pending motion for preliminary injunction.

Under Rule 6(b)(1), good cause exists for establishing this date because the parties are evaluating the issues raised in the compliant and defendant is still determining the appropriate Answer or other responsive pleading. F.R.C.P. 6. Moreover, Mintz Levin has just recently been associated in as counsel for defendant, and is still evaluating the Complaint to assist in preparing an Answer or other responsive pleading. Additionally, the plaintiff recently filed a motion for preliminary injunction, and counsel needs to analyze the motion in order to determine how it effect the contents of its Answer or other responsive pleading.

There is no bad faith on the part of defendant or prejudice to plaintiff that will result from this new date. "[A]n application for the enlargement of time under Rule 6(b)(1) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party." *Kernisant v. City of New York*, 225 F.R.D. 422 , 431 (E.D.N.Y. 2005) quoting 4B Fed. Prac. & Proc. Civ.3d § 1165; *see also Carson v. Roper*, 1994 WL 62100 *5 (N.D. Cal. Feb. 11, 1994) ("Courts routinely grant ex parte motions for extensions of time.").

Accordingly, the parties move the Court to enter the enclosed order to establish the time to file a responsive pleading.

Dated: August 11, 2008

SOLOMON WARD SEIDENWURM & SMITH, LLP

By: s/Edward J. McIntyre
Edward J. McIntyre, Esq.

[1] This is the second extension that Living Essentials has requested, and to which Hansen Beverage Company has agreed. The previous requested extension was submitted to the court in a prior joint motion, and made the due date for Living Essentials' responsive pleading August 11, 2008. Through this joint motion, Living Essentials seeks an additional one (1) week-to respond to the complaint.

Attorneys for Plaintiff
HANSON BEVERAGE COMPANY

Dated: August 11, 2008

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC

By: s/Nathan Hamler
Nathan R. Hamler, Esq.

Attorneys for Defendant
INNOVATION VENTURES, LLC dba LIVING ESSENTIALS

CERTIFICATE OF SERVICE

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of San Diego, State of California, and am not a party to the above-entitled action.

On August 11, 2008, I filed a copy of the above captioned document:

by electronically filing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Norman L. Smith, Esq.
Edward J. McIntyre, Esq.
Alison L. Pivonka, Esq.
SOLOMON WARD SEIDENWURM & SMITH
401 B Street, Suite 1200
San Diego, CA 92101
(619) 231-0303

Attorneys for Plaintiff
HANSEN BEVERAGE COMPANY

nsmith@swsslaw.com
emcintyre@swsslaw.com
apivonka@swsslaw.com

Executed on August 11, 2008, at San Diego, California. I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

s/Nathan Hamler
Nathan R. Hamler, Esq.

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